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In re Application of
James Maligeorgos
Application No. 09/776392
Filing or 371(c) Date: 02/02/2001
Attorney Docket Number:
M-12181 US

APR 14 2008
OFFICE OF PETITIONS
ON PETITION

This is a decision on the Request to Withdraw Holding of Abandonment, filed July 28, 2006. The request is properly treated under 37 CFR § 1.181. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

Background

A final Office action was mailed January 19, 2005. Applicant filed a response to the Office action in the form of a Request for Continued Examination ("RCE"), and as the submission referred to a Preliminary Amendment filed August 19, 2002. Applicant also filed an Information Disclosure Statement with the RCE.

In response to the RCE filing, this Office mailed a Notice of Non-Compliant Amendment on September 6, 2005. The Notice of Non-Compliant stated that the period for reply remained as set forth in the final Office action.

On November 15, 2005, this Office mailed an Office communication to Applicant informing the Applicant that the Notice of Non-Compliant Amendment mailed on September 6, 2005 was an error and should be vacated. A Notice of Abandonment was subsequently mailed on July 18, 2006.

Applicant's Assertion

Applicant files the present petition and requests withdrawal of the holding of abandonment based upon the vacating of the Notice of Non-Compliant Amendment.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application file does not indicate a change of address has been filed in this case by a proper party of record, although the address given on the petition differs from the address of record. A change of address by a proper party in interest should be filed in this case in accordance with MPEP 601.03.

The MPEP 601.03 provides:

Where a correspondence address has been established on filing of the application or changed pursuant to 37 CFR 1.33(a)(1) (prior to the filing of an executed oath or declaration under 37 CFR 1.63 by any of the inventors), that correspondence address remains in effect upon filing of an executed oath or declaration under 37 CFR 1.63 and can only be subsequently changed pursuant to 37 CFR 1.33(a)(2). Under 37 CFR 1.33(a)(2), where an executed oath or declaration under 37 CFR 1.63 has been filed by any of the inventors, the correspondence address may be changed by (A) a patent practitioner of record, (B) an assignee as provided for under 37 CFR 3.71(b), or (C) all of the applicants (37 CFR 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with 37 CFR 3.71. See 37 CFR 1.33(a)(2).

A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application will be referred to Technology Center Art Unit 2817 for processing of the RCE, and for continued examination in the normal course of business.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


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